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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/600,206	06/19/2003	Darko Segota	11023.5	9031
21999	7590	02/07/2007	EXAMINER	
KIRTON AND MCCONKIE 60 EAST SOUTH TEMPLE, SUITE 1800 SALT LAKE CITY, UT 84111			LEE, BENJAMIN P	
			ART UNIT	PAPER NUMBER
			3641	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/07/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/600,206	SEGOTA ET AL.	
Examiner	Art Unit		
Benjamin P. Lee	3641		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 12/13/2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-37 is/are pending in the application.
4a) Of the above claim(s) 6, 20-24 and 26-37 is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-5,7-19 and 25 is/are rejected.

7) Claim(s) 9 is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
5) Notice of Informal Patent Application
6) Other: _____

DETAILED ACTION

Election/Restrictions

1. In response to Election/Restriction dated 5/25/2006, Applicant elects claims 1-25 (group I) and sub-species 5.A.b; 5.B.a; 5.C.b; 5.D.b; 5.E.b. It has been noted that applicant has not identified the claims which read on the elected species as required, however in an effort to advance the prosecution, the examiner has determined that claims 6 and 20-24 do not read on the elected species. Therefore, claims 26-37 (group II) and claims 6 and 20-24 are withdrawn.

2. Claims 1-5, 7-19 and 25 have been examined.

Functional Language

3. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

Claim Objections

4. Claim 9 is objected to because of the following informalities: A period should be added. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-5, 7-19 and 25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regards to claim 1, the term "positively influences" has no contextual support. Applicant has not elaborated on what is meant by "positively" and its unclear which specific flow properties are influence. In regards to claim 11, it is unclear to which vectors Applicant is referring. Examiner assumes that Applicant intends "effectuating vector positioning" to refer to the ability to control the direction of the fluid flow about surface.
6. Claim 18 recites the limitation "leading and trailing edges" in line 8 and "fan blade" in line 11. There is insufficient antecedent basis for these limitations in the claim.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5, 7, 8, 11, 13, 15, 16, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wells et al. (U.S. Patent 5505405).

8. In regards to claims 1 and 18, Wells et al disclose a fuselage comprising the following:

- a. a frontal fuselage portion that leads through a fluid (col. 3, lines 55-59).
Note that Wells et al disclose a "frontal portion of the fuselage" which inherently "leads through a fluid (air);
- b. an outer fuselage surface relating with said frontal fuselage portion that receives fluid flow thereon (see Wells et al fig. 3 following);
- c. at least one fluid flow regulator featured and operable with said outer fuselage surface and extending at least a partial distance around said fuselage (items 20 of Wells et al fig. 3 following and col. 4, lines 63-67);
- d. fluid flow regulator comprising a leading surface and a trailing surface (see Wells et al fig. 3 following);
- e. a pressure recovery drop extending a pre-determined distance between said leading and trailing edges to form a down step, said pressure recovery drop comprising at least one drop face of a calculated distance (col. 3, lines 30-35), said fluid flow regulator functioning to regulate existing pressure gradients along said fuselage to optimize and equalize said fluid flow and to reduce the separation potential of said fluid, wherein said regulation of said pressure gradients positively influences the flow properties and behavior of said fluid across said fuselage, and thus the performance of the craft comprising said fuselage (see Wells et al fig. 3 and col. 3, lines 30-54);

- f. a sub-atmospheric barrier generated at the base of said drop face as said fluid encounters and flows over said pressure recovery drop, said sub-atmospheric barrier comprising a low pressure area of fluid molecules having decreased kinetic energy that serve as a cushion between said higher kinetic energy fluid molecules in said fluid and the molecules at said outer fuselage surface to facilitate laminar flow and assist in the reduction of the separation potential of said fluid (col. 3, lines 40-45). Note that the "step" disclosed by Wells et al creates a "low pressure area" and thus helps to reduce the separation potential of the fluid;
- g. a trailing edge that defines and extends from the base of said pressure recovery drop that provides a trailing flow boundary for said fluid (see Wells et al fig. 3 following). Note that the "trailing surface" extends from the "pressure recovery drop" and inherently provides a trailing flow "boundary" for the fluid.

9. In regards to claim 2, Wells et al disclose a pressure recovery drop is positioned at or proximate an optimal pressure recovery point defined as the location(s) about said surface at which there is an imbalanced or unequal pressure gradient forward and aft of said fluid, thus creating an adverse pressure about said fuselage, which adverse pressure gradient induces friction and pressure drag that ultimately increases the separation potential of said fluid (col. 28-35). Note that Wells et al disclose positioning

the "steps" at a point where the nose meets the fuselage and/or along the length of the fuselage.

10. In regards to claim 3, Wells et al disclose that the pressure recovery drop is oriented substantially perpendicular to the direction of flow of said fluid (see Wells et al fig. 3 following).

11. In regards to claim 4, Wells et al disclose that the pressure recovery drop comprises a linear formation (see Wells et al fig. 3 following).

12. In regards to claim 5, Wells et al disclose that the fluid flow regulator extends annularly around said fuselage (col. 4, lines 63-67).

13. In regards to claim 7, Wells et al disclose that the pressure recovery drop extends about only a portion of said outer fuselage surface (col. 3, lines 55-59). Note that Wells et al disclose that the "steps" extend longitudinally along the "forward portion" (only a portion) of the fuselage.

14. In regards to claim 8, Wells et al disclose that the outer fuselage surface features a plurality of fluid flow regulators that function together to regulate, influence, and control fluid flow and its properties and characteristics across said outer fuselage surface (see Wells et al fig. 3 following and col. 3, lines 39-45 and 55-59).

15. In regards to claim 11, Wells et al disclose that the fluid flow regulator comprises means for effectuating vector positioning about said surface. Note that since Wells et al disclose a "fluid flow regulator" to the degree specified by applicant and based on the common definition of "effectuating" found at www.dictionary.com, Wells et al inherently disclose "effectuating vector positioning". Since Wells et al disclose a "fluid flow regulator" (step) that "influences" the fluid flow, Wells et al inherently disclose "effectuating vector positioning about the surface".

16. In regards to claim 13, Wells et al disclose that the fluid flow regulator is integrally formed with said outer fuselage surface (see Wells et al fig. 3 following).

17. In regards to claim 15, Wells et al disclose that the pressure recovery drop comprises a plurality of drop faces to magnify the influence of fluid flow regulator on said fluid (see Wells et al fig. 3 following).

18. In regards to claim 16, Wells et al disclose that the fuselage comprises a fuselage of an aircraft (col. 1, lines 5-12).

19. In regards to claim 19, Wells et al disclose that the moving body comprises the fuselage of an airplane or other similar aircraft (col. 3, lines 55-59).

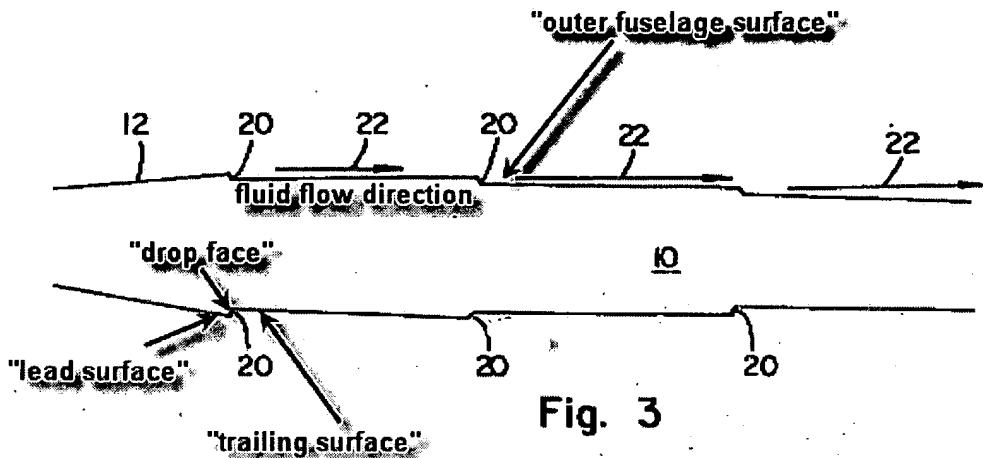


Fig. 3

Wells et al.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

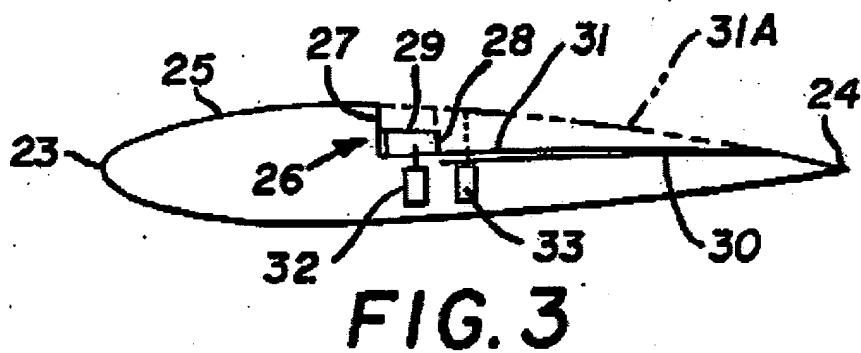
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

20. Claims 9, 10, 17 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al. (U.S. Patent 5505409) in view of Smith et al. (U.S. Patent 4890803).

21. In regards to claims 9, 10 and 12, Wells et al fail to disclose that the fluid flow regulator is a dynamic fluid flow regulator capable of adjusting, on demand, with varying design constraints, flow characteristics, environmental conditions, and operational situations pertaining to said fluid, said object, and any combination of these. However, Smith et al disclose a "fluid flow regulator" (item 26 of Smith et al fig. 3 following) that is "movable" to manipulate flow characteristics (col. 3, lines 42-46 and 57-65) and is inherently capable of "adjustment" to meet any of Applicant's stated conditions or situations. Note that this is equivalent to Applicant's adjustable "pressure recovery drop". It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to incorporate a "movable" (adjustable) "fluid flow regulator" (pressure recovery drop) into/onto a fluid flow surface as disclosed by Smith et al, so that an operator can control the fluid flow dynamics and thus the lift generation of the fluid flow surface (body) is capable of manipulation according to the angle at which the fluid flow surface interfaces the direction of fluid flow (angle of attack). Note that based on the common definition of oscillate, "to move repeatedly from side to side or up and down between to points", presented by the Cambridge Dictionary of American English

(www.dictionary.cambridge.org), the “movable pressure recovery drop” as stated by Applicant in claim 10, is inherently capable of “repeated [movement] between two points” and therefore Applicant’s claim 12 is equivalent to claim 10.

22. In regards to claims 17 and 25, Wells et al fail to explicitly disclose that the pressure recovery drop comprises an orthogonal design. However, Smith et al disclose a “drop” that is at a right angle to the fluid flow surface (see Smith et al fig. 3 following). It would have been obvious to one of ordinary skill in the art at the time of applicant’s invention to require that the “drop” is at a right angle to the flow surface as disclosed by Smith et al to achieve the most significant pressure drop.



Smith et al

23. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wells et al. (U.S. Patent 5505409) in view of Fronek et al. (U.S. Patent 5848769).

24. In regards to claim 14, Wells et al fail to disclose that the fluid flow regulator that is removably attachable to allow said existing outer fuselage surface to feature one or more fluid flow regulators. However, Fronek et al disclose an "an article applied to surfaces to reduce the drag caused by fluids flowing across the surface" that is capable of being removeably attached to that surface (col. 1, lines 21-25). It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to provide a "removable" fluid flow regulator as disclosed by Fronek et al, so that the "fluid flow regulator" for routine maintenance or to be replaced.

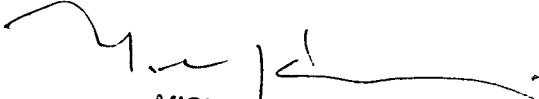
Summary/Conclusion

25. Claims 1-5, 7-19 and 25 are rejected. Claims 6, 20-24 and 26-37 are withdrawn.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin P. Lee whose telephone number is 571-272-8968. The examiner can normally be reached between the hours of 8:30am and 5:00pm on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on 571-272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER